

SENATE NO. 1121

AN ACT TO IMPOSE A CIVIL FINE FOR THE POSSESSION OF MIRIHUANA

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The first paragraph of section 34 of chapter 94C of the General Laws, as appearing in the
2 2002 Official Edition, is hereby amended by striking the fourth and fifth sentences and inserting in
3 place thereof the following:

4 Any person who violates this section by possession of less than an ounce of marihuana shall pay a
5 civil assessment of two hundred fifty dollars. Any person who violates this section by possession of
6 an ounce or more of marijuana or a controlled substance in Class E of section thirty-one shall be
7 punished by imprisonment in a house of correction for not more than six months or a fine of five
8 hundred dollars, or both. Except for an offense involving less than an ounce of marihuana or a
9 controlled substance in Class E of section thirty-one, whoever violates the provisions of this section
10 after one or more convictions of a violation of this section or of a felony under any other provisions of
11 this chapter, or of a corresponding provision of earlier law relating to the sale or manufacture of a
12 narcotic drug as defined in said earlier law, shall be punished by imprisonment in a house of correction
13 for not more than two years or by a fine of not more than two thousand dollars, or both.

14 SECTION 2. Said section 34, as so appearing, is hereby further amended by inserting after the last
15 paragraph thereof the following: -

16 A violation of this section by possession of marihuana shall, the first clause of section seventy C of
17 chapter two hundred and seventy-seven notwithstanding, be treated as a civil infraction and disposed
18 of in accordance with the provisions of section seventy C of chapter two hundred and seventy-seven.

19 An adjudication of responsibility shall neither be used as the basis for denial or revocation of any
20 license granted by the Commonwealth of Massachusetts, nor be deemed a conviction for purposes of
21 any disqualification or for any other purpose. A police officer who observes the occurrence of the
22 civil infraction of possessing marihuana shall cite the violator for the civil infraction. If the violator is
23 under the age of eighteen the citation shall be delivered to one of the parents or the legal guardian of
24 said person, or to the clerk of the district court having jurisdiction. The citation shall be in the form
25 provided for by General Laws chapter 90C, section 1. The procedures as set forth in the fifth
26 paragraph of section 2 of chapter 90C for the delivery of a citation alleging one or more criminal
27 automobile law violations to the clerk-magistrate of the district court where the violation occurred
28 shall be followed. Except as provided herein the provision for the processing of citations set forth in
29 chapter ninety C, sections 3(B)(2) and 3(C) shall apply.

30 No person cited only for the civil infraction of possessing less than an ounce of marihuana shall be
31 required to report to any probation officer, and no record of the case shall be entered in any probation
32 records. Unless additional criminal offenses are set forth on the citation the violator may confess the
33 civil violation of possessing less than an ounce of marihuana either personally or through a duly
34 authorized agent or by mailing to the clerk of the district court having jurisdiction thereof the sum
35 assessed either with the citation instead of requesting a hearing. The receipt by the district court clerk

36 of such payment shall operate as a final disposition of the case. Any person cited to appear before the
37 clerk of a district court who fails to pay the civil assessment provided hereunder within the time
38 specified or, having requested a hearing fails to appear, or who after a hearing and finding as provided
39 herein fails to pay the civil assessment or perform community service within thirty days, shall not have
40 the matter treated as a civil violation as provided in this paragraph and shall be punished as if
41 originally complained of for possessing an ounce or more of marihuana.

42 SECTION 3. Section 41 of chapter 94C of the General Laws, as appearing in the 2002 Official
43 Edition, is hereby amended by inserting at the end of clause (a) the following: ,

44 except for violation of the provisions of section thirty-four involving less than an ounce of marihuana
45 by a person eighteen years of age or older;.

46 SECTION 4. Said section 41, as so appearing, is hereby further amended by inserting in clause (c)
47 after the words, "thirty-four" the following:

48 ,except for violation involving less than an ounce of marihuana by a person eighteen years of age or
49 older,.